

# Exhibit 1

**DECLARATION OF CHRISTOPHER B. SEAMAN AND ELIZABETH ALLISON LYONS**

COMES NOW, Christopher B. Seaman and Elizabeth Allison Lyons pursuant to 28 U.S.C. § 1746, declares under penalty of perjury that the following is true and correct:

1. Our names are Christopher B. Seaman and Elizabeth Allison Lyons, and we are over 18 years old. We have personal knowledge of the facts as stated herein.
2. Dr. Lyons is a doctor of internal medicine.
3. We are married parents to C.S., who is 8 years old and is in third grade at Brownsville Elementary School in Albemarle County Public Schools.
4. C.S. has been diagnosed with Philadelphia chromosome-positive (Ph+) acute lymphoblastic leukemia (ALL) in 2018. He suffered relapsed disease in June 2021. C.S. is immunocompromised from chemotherapy, chimeric antigen receptor T-cell (CAR-T) therapy, and a bone marrow transplant.
5. These conditions substantially limit the operation of the major bodily function of the immune system.
6. These conditions put him at higher risk for severe complications if he were to become infected with COVID-19. Even a mild case of COVID-19 could have long-term effects, as it will interrupt ongoing cancer treatment and rehabilitation.
7. According to the Centers for Disease Control and Prevention (CDC), persons of any age with cancer are more likely to become severely ill from COVID-19. Severe illness means that a person with COVID-19 may be hospitalized, need intensive care, require a ventilator, or die. Ctrs. for Disease Control & Prevention, Persons with Certain Medical Conditions <https://www.cdc.gov/coronavirus/2019-ncov/need-extra-precautions/people-with-medical-conditions.html> (last updated Dec. 14, 2021).

8. A growing body of evidence demonstrates that childhood cancer patients are especially vulnerable to COVID-19. “[I]t is known that viral infection, including with other human coronaviruses, are associated with increase morbidity and mortality in immunocompromised children.”<sup>1</sup> One study of adult cancer patients found that “patients with cancer were observed to have a higher risk of severe events,” including admission to intensive care, placed on ventilators, or death, “compared to patients without cancer.”<sup>2</sup> Another study found that the incidence of COVID-19 in children with cancer was greater than in the general pediatric population.<sup>3</sup> A third study found that “[t]he severity of symptoms in children with cancer affected by COVID-19 is more than the general pediatric population, with more chance of developing severe symptoms and need for oxygen therapy.”<sup>4</sup> That same study found that the majority of affected patients also had a delay or change in their chemotherapy regimen because of infection from COVID-19.<sup>5</sup> Yet another study found that out of 71 childhood cancer patients who contracted COVID-

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<sup>1</sup> Rishi S. Koticha, Challenges Posed by COVID-19 to Children With Cancer, 21 Lancet Oncology E235 (Mar. 25, 2020), available at [https://www.thelancet.com/journals/lanonc/article/PIIS1470-2045\(20\)30205-9/fulltext](https://www.thelancet.com/journals/lanonc/article/PIIS1470-2045(20)30205-9/fulltext).

<sup>2</sup> Wenhua Liang et al., Cancer Patients In SARS-CoV-2 Infection: A Nationwide Analysis in China, 21 Lancet Oncology P335 (Mar. 1, 2020), available at [https://www.thelancet.com/journals/lanonc/article/PIIS1470-2045\(20\)30096-6/fulltext](https://www.thelancet.com/journals/lanonc/article/PIIS1470-2045(20)30096-6/fulltext).

<sup>3</sup> Teresa de Rojas et al., COVID-19 Infection in Children and Adolescents With Cancer in Madrid, 67 J. Pediatric Blood Cancer e28397 (2020), available at <https://onlinelibrary.wiley.com/doi/10.1002/pbc.28397>.

<sup>4</sup> Jadish Prasad Meena et al., Clinical Presentations and Outcomes of Children With Cancer and COVID-19: A Systemic Review, 68 J. Pediatric Blood Cancer 68 (2021), available at <https://onlinelibrary.wiley.com/doi/10.1002/pbc.29005>.

<sup>5</sup> Id.; see also Bradley Gampel et al., COVID-19 Disease in New York City Pediatric Hematology and Oncology Patients, 67 J. Pediatric Blood Cancer e28420 (2020), available at <https://onlinelibrary.wiley.com/doi/10.1002/pbc.28420> (finding that over 60% of hospitalized cancer patients studied had their cancer-related treatments delayed for COVID-19 infection).

19 and data was available, almost 20% suffered severe disease and 7% died during the observation period.<sup>6</sup>

9. C.S. has not been able to receive his COVID-19 vaccines yet because of the cancer treatment's impact on C.S.'s immune system. This also places C.S. at a heightened risk of serious illness due to COVID-19.
10. We also have one other child O.S. who is 5 years old and in kindergarten.
11. O.S. is fully vaccinated against COVID-19, he is not yet eligible for the booster. We are both fully vaccinated against COVID-19 and have received a booster.
12. As a result of the COVID-19 pandemic, in March 2020 Albemarle County School District switched to virtual instruction for the remainder of the year and the first quarter of the 2020-2021 school year. During this time, C.S. attended virtual school.
13. C.S. returned to in-person learning for the 2020-2021 school year in November 2020 when schools re-opened. During this time Albemarle County Public Schools had a universal indoor masking policy in place. Absent universal indoor masking, we likely would have switched C.S. to virtual instruction.
14. Unfortunately, C.S.'s cancer relapsed in June 2021 and he has had to undergo numerous treatments since, including chemotherapy, chimeric antigen receptor T-cell (CAR-T) immunotherapy, total body irradiation, and a bone marrow transplant.
15. C.S. currently receives virtual homebound instruction from Brownsville Elementary School. C.S. will return to in-person instruction as soon as his treatment allows it and it is safe to do so.

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<sup>6</sup> Sandy Schlage et al., SARS-CoV-2 in Pediatric Cancer: A Systematic Review, Eur. J. Pediatrics (2022), available at <https://www.ncbi.nlm.nih.gov/pmc/articles/PMC8744033>.

16. Although C.S. is not currently physically in school, he remains at risk because his younger brother, O.S. attends school every day in person. If O.S. wears a mask and attends school with unmasked classmates, he has an increased risk of contracting COVID-19 and potentially infecting C.S. C.S. remains at risk of contracting COVID-19 through his brother's school-based exposure.
17. C.S.'s medical provider has expressed concern regarding the risk of transmission to C.S. if C.S. or O.S. is exposed to unmasked and unvaccinated children.
18. If C.S. is exposed to or catches COVID-19, it could cause numerous complications and/or delays to his ongoing medical treatment. He would be unable to undergo required follow-up procedures such as bone marrow aspiration, weekly laboratory tests and clinical follow-up visits, and weekly physical therapy appointments. Additionally, if C.S. catches COVID-19, it could interfere with his ongoing targeted chemotherapy to prevent subsequent relapse.
19. According to the Albemarle County Public Schools COVID-19 Dashboard, weekly reports of confirmed COVID-19 cases among division students receiving in-person instruction ranged from 140 to 267 throughout January 2022. ACPS COVID-19 Dashboard: <https://www.k12albemarle.org/our-division/covid-19-response/covid-19-dashboard>. Within the past two weeks, O.S.'s classroom has had two confirmed COVID-19 cases.
20. On January 17, 2022, Albemarle County Public Schools announced that the division would uphold the mask mandate in defiance of Executive Order 2.
21. C.S. will not be able to return to in-person instruction unless universal masking remains in place at his school without opt-outs. One-way masking would not be sufficient, in our

view, to adequately protect C.S. from COVID-19 such that he could safely attend school in person.

22. If the universal indoor mask mandate is removed, we intend to remove O.S. from in-person instruction. We are concerned that, without a universal indoor masking mandate in place without opt-outs, O.S. may contract COVID-19 at school and transmit it to C.S.
23. If there is no longer a mask mandate in Albemarle County School Division, we will be forced to choose between O.S.'s and C.S.'s education and their health.
24. I am seeking to have EO 2 blocked so that my school will be able to require universal masking as necessary to meet its obligations to my children.

I swear under penalty of perjury under the laws of the United States that the foregoing is true and correct to the best of my knowledge.

Dates this 8<sup>th</sup> day of February, 2022 at Philadelphia, Pennsylvania.



Christopher B. Seaman, Plaintiff



Elizabeth Alison Lyons, Plaintiff